

Senate Bill 465

Sponsored by Senator JOHNSON

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows local government with land use jurisdiction over residential improvements substantially damaged by flooding to cause to be recorded, in office of county clerk, official designation of substantial damage.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to disclosure of flood damage to residential improvements; creating new provisions;
3 amending ORS 205.246; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) As used in this section, "substantial damage" means flood-related damage**
6 **to residential improvements for which the cost of restoration, repair or reconstruction of the**
7 **improvements is the lesser of:**

8 (a) **Fifty percent of the market value of the improvements before the flood damage oc-**
9 **curred; or**

10 (b) **The percentage of market value of improvements before the flood damage occurred**
11 **that is established by ordinance of a local government with land use jurisdiction over the real**
12 **property if the local government has adopted one or more ordinances for the purpose of**
13 **designating areas in which substantial damage has occurred.**

14 (2) **A local government with land use jurisdiction over real property containing residen-**
15 **tial improvements that sustain substantial damage may present for recordation in the office**
16 **of the county clerk a notice of designation of substantial damage.**

17 (3) **A county clerk shall record the notice of designation of substantial damage pursuant**
18 **to ORS 205.130 (3)(e).**

19 (4) **If the local government with land use jurisdiction has not caused the notice described**
20 **in subsection (2) of this section to be recorded and an owner of real property described in**
21 **this section sells the property without disclosing the substantial damage in a seller's prop-**
22 **erty disclosure statement issued under ORS 105.462 to 105.490, a buyer may bring a cause of**
23 **action against the seller for treble damages within two years after the buyer learns or should**
24 **have learned about the substantial damage.**

25 (5) **This section does not directly, indirectly or by implication limit or alter a preexisting**
26 **common law or statutory right or remedy, including actions for fraud, negligence or equita-**
27 **ble relief.**

28 **SECTION 2. ORS 205.246 is amended to read:**

29 205.246. (1) The county clerk shall record the following instruments required or permitted by law
30 to be recorded and entered in the office of the county clerk:

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (a) Financing statements recorded in the office of the county clerk under ORS 79.0501 (1)(a);
- 2 (b) Hospital and physician liens recorded under ORS 87.565;
- 3 (c) Federal tax liens and certificates and notices affecting federal tax liens recorded under ORS
- 4 87.806;
- 5 (d) Cooperative contracts recorded under ORS 62.360;
- 6 (e) Special district assessments attaching to real property;
- 7 (f) Lien foreclosure statements recorded under ORS 87.202;
- 8 (g) A certified copy of the judgment or a lien record abstract or other liens affecting the title
- 9 to real property;
- 10 (h) Building code exemptions required under ORS 455.320 and 455.345;
- 11 (i) Construction liens recorded under ORS 87.050;
- 12 (j) Liens upon chattels recorded under ORS 87.246;
- 13 (k) Liens on real property recorded under ORS 87.372;
- 14 (L) Employee benefit plan liens recorded under ORS 87.860;
- 15 (m) Attorney liens recorded under ORS 87.455 and 87.460;
- 16 (n) Long term care liens recorded under ORS 87.517;
- 17 (o) Ambulance services liens recorded under ORS 87.623;
- 18 (p) Community property records recorded under ORS 108.530;
- 19 (q) Sheriff transfer of records recorded under ORS 206.100;
- 20 (r) Corrected instruments required under ORS 205.244;
- 21 (s) Mineral and mining records required under ORS 517.030, 517.052, 517.160, 517.180, 517.210,
- 22 517.220, 517.280, 517.310 and 517.320;
- 23 (t) Copies of records certified by a county clerk or court clerk;
- 24 (u) Subdivision and partition plats recorded under ORS 92.140;
- 25 (v) Condominiums recorded under ORS chapter 100;
- 26 (w) Requests for notice of transfer or encumbrance or terminations of requests for notice of
- 27 transfer or encumbrance presented for recordation under ORS 411.694;
- 28 (x) Bankruptcy documents presented for recordation under ORS 93.770;
- 29 (y) A written warranty agreement under ORS 701.605;
- 30 (z) An instrument, as described in ORS 86.722, to correct errors in a recorded trust deed; [*and*]
- 31 (aa) An order or decision under section 8 (7), chapter 424, Oregon Laws 2007, or section 6,
- 32 chapter 855, Oregon Laws 2009, that is final by operation of law or on appeal; **and**

33 **(bb) A notice of designation of substantial damage described in section 1 of this 2013**
 34 **Act.**

35 (2) The county clerk shall charge and collect fees specified in ORS 205.320, 205.327 and 205.350
 36 for recording an instrument required to be recorded under subsection (1) of this section.

37 (3) Indexes may be maintained for instruments recorded under subsection (1) of this section in
 38 the same manner as provided in ORS 205.160.

39 **SECTION 3. Section 1 of this 2013 Act applies to substantial damage that occurs on or**
 40 **after the effective date of this 2013 Act.**

41 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
 42 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
 43 **on its passage.**